

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**TOM ARAND, P.C. d/b/a ANIMAL  
CARE CLINIC**

Respondent

and

**Case No. 16-CA-026387**

**EQUAL JUSTICE CENTER**

Charging Party

**MOTION TO TRANSFER AND CONTINUE CASE  
BEFORE THE BOARD AND  
MOTION FOR DEFAULT JUDGMENT**

**COMES NOW** Jamal M. Allen, Counsel for the Acting General Counsel, in the above-styled and numbered case, pursuant to Section 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended, and files this Motion to Transfer and Continue Case Before the Board and Motion for Default Judgment.

In support of this Motion, Counsel for the Acting General Counsel offers the following:

**I.**

On March 31, 2009, the National Labor Relations Board, herein called the Board, issued its Decision and Order, 353 NLRB No. 128, finding Tom Arand, P.C. d/b/a/ Animal Care Clinic, herein called Respondent, violated Section 8(a)(1) of the Act by unlawfully terminating Wendy Castellanos and James Turpin in retaliation for their protected activities. A copy of the Board's Decision and Order is attached hereto as Exhibit 1.

**2.**

The Board's March 31, 2009 Decision and Order directed Respondent to take certain affirmative actions to remedy the aforementioned violations, including making whole discriminatees Castellanos and Turpin for losses they suffered as a result of Respondent's unlawful termination of their employment.

**3.**

On July 22, 2009, the United States Court of Appeals for the Fifth Circuit, herein called the Fifth Circuit, entered its Judgment enforcing the Board's Decision and Order. A copy of the Fifth Circuit's July 22, 2009 Judgment is attached hereto as Exhibit 2.

**4.**

On June 14, 2010, the Board issued its Supplemental Decision and Order 355 NLRB No. 46 (2010) finding that Respondent shall make whole Wendy Castellanos and James Turpin, plus additional back pay and interest that may accrue in the absence of a valid offer of reinstatement and minus tax withholdings required by Federal and State laws. The Order further stated that the amount due Castellanos is \$7,571.28 and the total amount due Turpin is \$20,727.30 totaling \$28,298.58. A copy of the Board's Supplemental Decision and Order is attached hereto as Exhibit 3.

**5.**

On March 18, 2011, the Fifth Circuit entered its Judgment enforcing the Board's Supplemental Decision and Order. A copy of the Fifth Circuit's March 18, 2011 Judgment is attached hereto as Exhibit 4.

**6.**

(a). On March 30, 2011, Respondent made a valid offer of reinstatement to Castellanos.

(b). The additional backpay accrued for Castellanos is \$1,116.00 which accrued from February 26, 2010, the date which ended the original back pay calculations as

decided in the Board's Supplemental Order dated June 14, 2010 through March 30, 2011, the date on which Respondent made its valid offer of reinstatement to Castellanos..

(c). The total amount due Castellanos from the Board's Supplemental Order to the date on which Respondent made its valid offer of reinstatement to her is \$8,687.28.

**7.**

(a). On April 1, 2011, Respondent made a valid offer of reinstatement to Turpin.

(b). The additional back pay accrued for Turpin is \$12,547.19 which accrued from February 26, 2010, the date which ended the original back pay calculations as decided in the Board's Supplemental Order dated June 14, 2010 through April 1, 2011, the date on which Respondent made its valid offer of reinstatement to Turpin.

(c). The total amount due Turpin from the Board's Supplemental Order to the date on which Respondent made its valid offer of reinstatement to him is \$33,274.49.

**8.**

On January 18, 2012, the Regional Director of Region 16, pursuant to Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, issued an Amended Supplemental Compliance Specification and Notice of Hearing in Case No. 16-CA-026387. Said Amended Supplemental Compliance Specification was served on Respondent by certified mail on January 18, 2012. Pursuant to Sections 102.56 of the Board's Rules and Regulations, Series 8, as amended, the Amended Supplemental Compliance Specification requested that Respondent file an Answer on or before February 8, 2012. Copies of the Amended Supplemental Compliance Specification and service thereof are attached hereto as Exhibits 5 and 6.

**9.**

By letter dated February 10, 2012, Counsel for the Acting General Counsel advised Respondent that it had failed to file an Answer to the Amended Supplemental Compliance Specification referred to above in paragraph 8. The letter further advised

Respondent that a Motion for Default Judgment would be filed if Respondent failed to file an Answer before the close of business on Friday, February 17, 2012. A copy of this letter is attached hereto as Exhibit 7.

**10.**

As of today's date, Respondent has failed and refused to file an Answer to the Amended Supplemental Compliance Specification.

**11.**

Based on Respondent's failure to file an Answer to the Amended Supplemental Compliance Specification in accordance with Section 102.56 of the Board's Rules and Regulations, Series 8, as amended, Counsel for the General Counsel moves that the Board:

(a) Grant Counsel for the Acting General Counsel's Motion to Transfer and Continue Case Before the Board and Motion for Default Judgment;

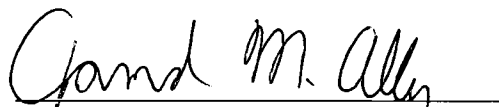
(b) Find that all allegations of the Amended Supplemental Compliance Specification are true;

(c) Issue a Decision and Order finding Respondent's net backpay liability to Wendy Castellanos is \$8,687.28, less the withholding required by Federal and state laws, plus interest accrued to the date of payment;

(d) Issue a Decision and Order finding Respondent's net backpay liability to James Turpin is \$33,274.49, less the withholding required by Federal and state laws, plus interest accrued to the date of payment; and

(e) Provide any further relief as the Board may deem to be appropriate in order to effectuate the policies and purposes of the Act.

**DATED** at Houston, Texas, this 24<sup>th</sup> day of February 2012.

A handwritten signature in black ink, reading "Jamal M. Allen", written over a horizontal line.

JAMAL M. ALLEN

Counsel for the Acting General Counsel

National Labor Relations Board

Region 16

1919 Smith Street, Suite 1545

Houston, TX 77002-8051

## **CERTIFICATE OF SERVICE**

I hereby certify that on this date copies of the foregoing Motion To Transfer And Continue Case Before The Board And Motion For Default Judgment dated February 24, 2012, were served by regular mail on the following parties.

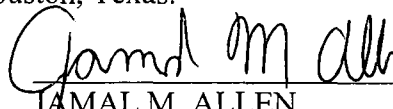
**Tom Arand, P.C. d/b/a Animal Care Clinic**

Attn: Dr. Jay Meyer, Owner  
1401 S. IH-35, Suite 11  
Round Rock, Texas 78664

**Equal Justice Center**

510 S. Congress Avenue, Suite 206  
Austin, Texas 78704

Dated this 24<sup>th</sup> day of February 2012 at Houston, Texas.

A handwritten signature in cursive script, reading "Jamal M. Allen", written over a horizontal line.

JAMAL M. ALLEN

Counsel for the Acting General  
Counsel

National Labor Relations Board  
Region 16  
1919 Smith Street, Suite 1545  
Houston, TX 77002-8051

*NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Tom Arand, P.C. d/b/a Animal Care Clinic and  
Equal Justice Center. Case 16-CA-26387**

March 31, 2009

**DECISION AND ORDER**

BY CHAIRMAN LIEBMAN AND MEMBER SCHAUMBER

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charge filed by the Charging Party on August 26 and September 18, 2008, respectively, the General Counsel issued the complaint on December 30, 2008, against Tom Arand, P.C. d/b/a Animal Care Clinic, the Respondent, alleging that it has violated Section 8(a)(1) of the Act. The Respondent failed to file an answer.

On February 9, 2009, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on February 12, 2009, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

**Ruling on Motion for Default Judgment<sup>1</sup>**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by January 13, 2009, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated January 15, 2009, notified the Respondent that unless an answer was received by January 21, 2009, a motion for default judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer or a response to the Notice to Show Cause, we deem the allegations in the

<sup>1</sup> Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act.

complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a Texas corporation, with a principal office and place of business located at 1401 South I H 35, Suite 11, Round Rock, Texas, 78664, has been engaged in business as a veterinary hospital.

During the calendar year preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations described above, derived gross revenues in excess of \$1,000,000 and purchased and received at its Round Rock, Texas facility products, goods, and materials valued in excess of \$50,000 directly from points located outside the State of Texas.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and/or agents of the Respondent within the meaning of Section 2(13) of the Act:

Teri Burnett	Office/Practice Manager
Dr. Jay Meyer	President/Owner

On various dates in mid to late June 2008, the Respondent's employees concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inappropriate conduct and/or favoritism by Meyer towards another employee.

On various dates in July 2008, the Respondent's employees, including Wendy Castellanos, concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inappropriate conduct and/or favoritism by Meyer towards another employee.

On various dates in early August 2008, the Respondent's employees, including Wendy Castellanos and James Turpin, concertedly complained to the Respondent regarding the wages, hours, and working conditions of the Respondent's employees by verbally expressing concerns to Burnett regarding perceived inap-

propriate conduct and/or favoritism by Meyer towards another employee.

About August 20, 2008, the Respondent, by Meyer, orally promulgated and since then has maintained a work rule that prohibits employees from discussing wages and/or other terms and conditions of employment.<sup>2</sup>

About August 21, 2008, the Respondent discharged employee Wendy Castellanos.

About August 25, 2008, the Respondent discharged employee James Turpin.

The Respondent engaged in the conduct described above because Wendy Castellanos and James Turpin engaged in and/or the Respondent believed that Castellanos and Turpin engaged in the concerted conduct described above and to discourage employees from engaging in these or other concerted activities.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed them by Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(1) of the Act by discharging Wendy Castellanos and James Turpin because they engaged in and/or the Respondent believed that they engaged in protected concerted activity, we shall order the Respondent to offer these employees full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to

<sup>2</sup> Although the complaint alleges these facts and requests an affirmative remedy for this allegation, the complaint does not allege that the Respondent's actions in this paragraph constitute an unfair labor practice. In these circumstances, we cannot find an unfair labor practice or provide a remedy for the Respondent's promulgation and maintenance of a work rule prohibiting employees from discussing wages and/or other terms and conditions of employment. Accordingly, the General Counsel's Motion for Default Judgment with respect to this issue is denied. Nothing herein precludes the General Counsel from amending the complaint to allege that the Respondent's promulgation and maintenance of the rule described above violated the Act. In the event that the Respondent again fails to answer, thereby admitting evidence that would permit the Board to find the alleged violation, the General Counsel may renew the Motion for Default Judgment with respect to the amended complaint allegation.

their seniority or any other rights and privileges previously enjoyed, and to make them whole for any loss of earnings and other benefits suffered as a result of the discrimination against them. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).<sup>3</sup> The Respondent shall also be required to remove from its files any and all references to the unlawful discharges of Castellanos and Turpin, and to notify these employees in writing that this has been done and that the discharges will not be used against them in any way.

#### ORDER

The National Labor Relations Board orders that the Respondent, Tom Arand, P.C. d/b/a Animal Care Clinic, Round Rock, Texas, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Discharging or otherwise discriminating against employees because they engage in and/or the Respondent believes that they have engaged in protected concerted activities, or to discourage employees from engaging in such activities.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

##### 2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

(b) Make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits suffered as a result of their unlawful discharges, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and within 3 days thereafter, notify these employees in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

<sup>3</sup> In the complaint, the General Counsel seeks "interest compounded on a quarterly basis" on all backpay owed to discriminatees. Having duly considered the matter, we are not prepared at this time to deviate from our current practice of assessing simple interest. See, e.g., *Rogers Corp.*, 344 NLRB 504 (2005).





(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Round Rock, Texas, copies of the attached notice marked "Appendix."<sup>4</sup> Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 21, 2008.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. March 31, 2009

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Wilma B. Liebman, Member

---

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

<sup>4</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## APPENDIX

### NOTICE TO EMPLOYEES

#### POSTED BY ORDER OF THE

#### NATIONAL LABOR RELATIONS BOARD

#### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against you because you engage in and/or we believe that you have engaged in protected concerted activities, or to discourage you from engaging in such activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

TOM ARAND, P.C. D/B/A ANIMAL CARE CLINIC



**United States Court of Appeals**  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

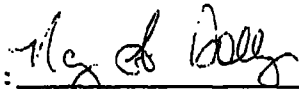
July 22, 2009

Ms. Linda Jill Dreeben  
National Labor Relations Board  
1099 14th Street NW  
Suite 808  
Washington, DC 20570-0000

No. 09-60335, NLRB v. Tom Arand P.C.  
USDC No. 16-CA-26387

Enclosed herewith is a certified copy of this Court's order entered this date granting the petitioner's application for summary entry of a judgment, together with a certified copy of said judgment.

CHARLES R. FULBRUGE III, Clerk

By:   
Nancy F. Dolly, Deputy Clerk  
504-310-7683

cc: w/encl:  
Ms. Martha M Kinard  
Mr. Tom Arand P.C.

Mandate Issued - MDT-1 (ag, tax)

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 09-60335

---

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

TOM ARAND P.C., doing business as Animal Care Clinic,

Respondent

---

Petition for Review of an Order of the  
National Labor Relations Board

---

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:

IT IS ORDERED that petitioner's application for summary  
enforcement is *Granted*.

U.S. COURT OF APPEALS  
**FILED**

JUL 22 2009

CHARLES E. FULBRUGH III  
CLERK

**09-60335**

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS  
**FILED**

JUL 22 2009

CHARLES R. FULBROGE III  
CLERK

NATIONAL LABOR RELATIONS BOARD :

Petitioner :

No.

v. :

Board Case No.:  
16-CA-26387

TOM ARAND P.C. D/B/A  
ANIMAL CARE CLINIC

Respondent :

JUDGMENT ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD

Before: JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Tom Arand P.C. d/b/a Animal Care Clinic, its officers, agents, successors, and assigns, enforcing its order dated March 31, 2009, in Case No. 16-CA-27387, and the Court having considered the same, it is hereby

ORDERED AND ADJUDGED by the Court that the Respondent, Tom Arand P.C. d/b/a Animal Care Clinic, its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

ENTERED: July 22, 2009

**NATIONAL LABOR RELATIONS BOARD**

v.

**TOM ARAND P.C. D/B/A ANIMAL CARE CLINIC****ORDER**

The National Labor Relations Board orders that the Respondent, Tom Arand, P.C. d/b/a Animal Care Clinic, Round Rock, Texas, its officers, agents, successors, and assigns, shall

1. Cease and desist from
  - (a) Discharging or otherwise discriminating against employees because they engage in and/or the Respondent believes that they have engaged in protected concerted activities, or to discourage employees from engaging in such activities.
  - (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act.
  - (a) Within 14 days from the date of this Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
  - (b) Make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits suffered as a result of their unlawful discharges, with interest, in the manner set forth in the remedy section of the Board's Decision and Order of March 31, 2009.
  - (c) Within 14 days from the date of this Order, remove from its files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and within 3 days thereafter, notify these employees in writing that this has been done, and that the unlawful discharges will not be used against them in any way.
  - (d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records

and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

- (e) Within 14 days after service by the Region, post at its facility in Round Rock, Texas, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 16, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 21, 2008.
- (f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.



**APPENDIX****NOTICE TO EMPLOYEES**

**POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES  
COURT OF APPEALS ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government**

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

**FEDERAL LAW GIVES YOU THE RIGHT TO**

Form, join or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against you because you engage in and/or we believe that you have engaged in protected concerted activities, or to discourage you from engaging in such activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Wendy Castellanos and James Turpin full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Wendy Castellanos and James Turpin whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any and all references to the unlawful discharges of Wendy Castellanos and James Turpin, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done, and that the unlawful discharges will not be used against them in any way.

**TOM ARAND, P.C. D/B/A ANIMAL CARE CLINIC**

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**Tom Arand, P.C. d/b/a Animal Care Clinic and Equal Justice Center. Case 16-CA-26387**

June 14, 2010

**SUPPLEMENTAL DECISION AND ORDER**

BY MEMBERS SCHAMBER, BECKER, AND PEARCE

The General Counsel seeks default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.

On March 31, 2009, the Board issued a Decision and Order,<sup>1</sup> that, among other things, ordered the Respondent to offer reinstatement to discriminatees Wendy Castellanos and James Turpin and make them whole for any loss of earnings and other benefits resulting from their unlawful discharges in violation of Section 8(a)(1) of the Act. On July 22, 2009, the United States Court of Appeals for the Fifth Circuit entered its judgment enforcing the Board's Order.<sup>2</sup>

A controversy having arisen over the amount of backpay due the discriminatees, on February 26, 2010, the Regional Director issued a compliance specification and notice of hearing alleging the amount of backpay due under the Board's Order, and alleging that the Respondent has failed to take any of the action required to comply with the court-enforced Board Order. The compliance specification notified the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated March 30, 2010, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by April 2, 2010, a motion for default judgment would be filed.<sup>3</sup> To date, the Respondent has failed to file an answer.

On April 16, 2010, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On April 16, 2010, the Board issued an order transferring the proceeding to the Board and a Notice to

Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on the Motion for Default Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due Castellanos and Turpin is as stated in the compliance specification, and we will order the Respondent to pay those amounts to the discriminatees, plus interest accrued to the date of payment. Further, we find that backpay, expenses, and interest continue to accrue until the Respondent makes a valid offer of reinstatement to the discriminatees.<sup>4</sup>

**ORDER**

The National Labor Relations Board orders that the Respondent, Tom Arand, P.C. d/b/a Animal Care Clinic, Round Rock, Texas, its officers, agents, successors, and assigns, shall make whole Wendy Castellanos and James Turpin, by paying them the amounts following their names, plus additional backpay and interest that may

<sup>1</sup> 353 NLRB No. 128 (2009)

<sup>2</sup> No. 09-60335

<sup>3</sup> According to the uncontroverted allegations of the motion for default judgment, the Respondent acknowledged receipt of the Region's March 30, 2010 letter via telephone message left with the Region on April 1, 2010, and advised that it would not be able to file an answer by April 2, 2010 and could not commit to a date certain as to when it would be able to file an answer.

<sup>4</sup> As indicated above, the compliance specification alleges that the Respondent has failed to reinstate Castellanos and Turpin, to remove the references of their unlawful discharges from its files, to notify them in writing that the references have been removed from the Respondent's files, to post or duplicate and mail the required notices to employees, and to file a sworn certification with the Region setting forth the steps taken to comply. By failing to file an answer, the Respondent has effectively admitted that it has failed to do so. Nevertheless, we find it unnecessary in this proceeding to order the Respondent to take the actions described above, as those actions are included in our previous Order that has been enforced by the court of appeals. See *Bryan Adair Construction Co.*, 341 NLRB 247, 247 fn. 4 (2004).

accrue in the absence of a valid offer of reinstatement, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and State laws:

Wendy Castellanos	\$ 7,571.28
James Turpin	<u>20,727.30</u>
TOTAL BACKPAY DUE:	\$28,298.58

Dated, Washington, D.C. June 14, 2010

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Peter C. Schaumber,	Member
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Craig Becker,	Member
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Mark Gaston Pearce,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130

March 18, 2011

Ms. Linda Dreeben  
National Labor Relations Board  
Appellate Court Branch  
1099 14th Street, N.W.  
Suite 808  
Washington, DC 20570-0000

No. 10-60932, NLRB v. Tom Arand, P.C., et al  
USDC No. 16-CA-26387

Enclosed is a copy of this court's order entered this date granting the petitioner's application for summary entry of a judgment, together with a copy of the judgment.

Sincerely,

LYLE W. CAYCE, Clerk

*Angelique D. Batiste*  
By: \_\_\_\_\_  
Angelique D. Batiste, Deputy Clerk  
504-310-7715

cc w/encl:  
Ms. Martha Elaine Kinard  
Mr. Jay Meyer  
Tom Arand P.C.

Mandate Issued - MDT-1 (ag,tax)

Exhibit

4

16-CA-26387

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 10-60932

---

NATIONAL LABOR RELATIONS BOARD,

Petitioner

v.

TOM ARAND P.C., doing business as Animal Care Clinic; JAY MEYER,

Respondents

---

Petition for Review of an Order of the  
National Labor Relations Board

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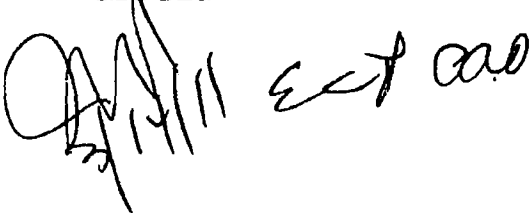
Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:

IT IS ORDERED that petitioner's application for summary entry of  
judgment is

GRANTED

MOT21

Handwritten signature and initials, possibly "MOT21" and "est ad".

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

TOM ARAND P.C. D/B/A  
ANIMAL CARE CLINIC

Respondent

10-60932

No.

Board Case No.:

16-CA-26387

JUDGMENT ENFORCING AN ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD

Before:

This Court having on July 22, 2009, in No. 09-60335, entered its judgment enforcing in full the Order of the National Relations Board in Board Case No. 16-CA-26387, the Board on June 14, 2010, issued its Supplemental Decision and Order fixing the amount due and having thereafter applied to this Court for summary entry of a judgment specifying the amount due:

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the Respondent, Tom Arand P.C. d/b/a Animal Care Clinic, its officers, agents, successors, and assigns, shall make whole Wendy Castellanos and James Turpin, by paying them the amounts following their names, plus additional backpay and interest that may accrue in the absence of a valid offer of reinstatement, plus interest accrued to the date of payment, as prescribed in *New Horizons for the*

*Retarded*, 283 NLRB 1173 (1987), and minus tax withholdings required by Federal and State laws:

Wendy Castellanos	\$ 7,571.28
James Turpin	<u>20,727.30</u>
TOTAL BACKPAY DUE:	\$28,298.58

Mandate shall issue forthwith.

ENTERED: 03/18/11

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

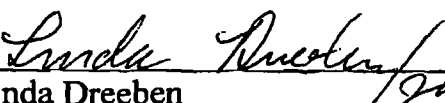
NATIONAL LABOR RELATIONS BOARD	:	
	:	
	:	
Petitioner	:	No.
v.	:	
	:	
	:	Board Case No.:
TOM ARAND P.C. D/B/A	:	16-CA-26387
ANIMAL CARE CLINIC	:	
	:	
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned certifies that one copy each of the Board's application for summary entry of judgment, appearance of counsel form, and proposed judgment, in the above-captioned case, has this day been served by first class mail upon the following parties at the address listed below:

Dr. Jay Meyer  
Animal Care Clinic  
1401 S. IH-35, Suite 11  
Round Rock, TX 78664

Tom Arand P.C.  
c/o Dr. Jay Meyer  
Animal Care Clinic  
1401 S. IH-35, Suite 11  
Round Rock, TX 78664

  
Linda Dreeben  
Deputy Associate General Counsel  
National Labor Relations Board  
1099 14th Street, N.W.  
Washington, D.C. 20570

Dated at Washington, D.C.  
this 3rd day of December, 2010



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 16**

**TOM ARAND, P.C. d/b/a ANIMAL  
CARE CLINIC**

Respondent

and

**Case No. 16-CA-26387**

**EQUAL JUSTICE CENTER**

Charging Party

**AMENDED SUPPLEMENTAL COMPLIANCE SPECIFICATION  
AND NOTICE OF HEARING**

On March 31, 2009, the National Labor Relations Board, herein called the Board, issued its Decision and Order, 353 NLRB No. 128, directing Tom Arand, P.C. d/b/a Animal Care Clinic to take certain affirmative action, including making whole Wendy Castellanos and James Turpin for losses they suffered as a result of Respondent's unlawful termination of their employment in violation of Section 8(a)(1) of the National Labor Relations Act.

The United States Court of Appeals for the Fifth Circuit, herein called the Court, on July 22, 2009, entered its Judgment, as mandate, enforcing the Board Order.

On June 14, 2010, the Board issued its Supplemental Decision and Order finding that the total amount of backpay due to discriminatees Castellanos and Turpin is \$28,298.58, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings as required by Federal

and State laws. Further, the Supplemental Order found that backpay, expenses and interest continue to accrue until Respondent makes a valid offer of reinstatement to the discriminatees.

The Court, on March 18, 2011, entered its Judgment, as mandate, enforcing the Supplemental Board Order.

1. At all material times, Respondent has been engaged in business as a veterinary hospital in Round Rock, Texas.

2. (a) In its June 14, 2010 Supplemental Order, enforced by the Court, the Board ordered Respondent to pay backpay to Castellanos in the amount of \$7,571.28 plus interest. The Supplemental Board Order directed Respondent to pay backpay to Turpin in the amount of \$20,727.30.

(b) The Supplemental Board Order, as enforced by the Court, requires that Respondent pay additional backpay, expenses and interest to the date of its valid offer of reinstatement to Castellanos and Turpin.

(c) On March 30 2011, Respondent made a valid offer of reinstatement to Castellanos.

(d) On April 1, 2011, Respondent made a valid offer of reinstatement to Turpin.

3. (a) The additional backpay period for Castellanos begins February 26, 2010, as the backpay amounts found in the Board Supplemental Order were calculated to that date. The additional backpay period for Castellanos ends March 30, 2011, the date on which Respondent made its valid offer of reinstatement to her.

(b) The additional backpay period for Turpin begins February 26, 2010, as the backpay amounts found in the Board Supplemental Order were calculated to that date. The additional backpay period for Turpin ends April 1, 2011, the date on which Respondent made its valid offer of reinstatement to him.

4. An appropriate measure of the earnings each discriminatee would have received during the respective backpay period is the amount he would have earned if he had been continually employed by Respondent.

5. (a) The gross backpay each discriminatee would have earned is the sum of calendar quarter regular earnings and is set forth in Exhibits A and B.

(b) Regular earnings are computed by multiplying the number of weeks of backpay in each calendar quarter by the number of hours each discriminatee would have worked per week by the hourly wage rate of each discriminatee.

6. (a) The average number of hours which would have been worked per week by Castellanos is 9.

(b) The average number of hours which would have been worked per week by Turpin is 39.

7. (a) The hourly wage rate which would have been paid to Castellanos is \$10.65.

(b) The hourly wage rate which would have been paid to Turpin is \$13.00.

8. Calendar quarter interim earnings are the wages the discriminatees received from interim employers during the backpay period, computed on a quarterly basis. Calendar quarter interim earnings are set forth in Exhibits A and B.

9. During the backpay period, the discriminatees incurred calendar quarter expenses as set forth in Exhibits A and B.

10. Calendar quarter net interim earnings are the difference between calendar quarter interim earnings and calendar quarter interim expenses and are set forth in Exhibits A and B.

11. The calendar quarter net backpay due each discriminatee is the difference between the discriminatee's calendar quarter gross backpay and calendar quarter net interim earnings. The calendar quarter net backpay due each discriminatee is set forth in Exhibits A and B.

12. Summarizing the facts and calculations specified above and in Exhibits A and B, the obligation of Respondent to comply with the Board Supplemental Order and Court Judgment will be discharged by payment to the discriminatees of \$28,298.58, plus \$13,663.19 in net backpay as described in Exhibits A and B, less the withholding required by Federal and state laws, plus interest accrued to the date of payment.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Section 102.56 of the Board's Rules and Regulations, it must file an answer to the amended supplemental compliance specification. The answer must be received by this office on or before **February 8, 2012 or postmarked on or before February 7, 2012**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. *To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on File Case Documents, enter the NLRB Case Number, and follow the detailed instructions.* The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished

because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.56(a). If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to the amended supplemental compliance specification is not a pdf file containing the required signature, then the E-Filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

As to all matters set forth in the amended supplemental compliance specification, paragraphs 1 through 12, that are within the knowledge of Respondent, including but not limited to the various factors entering into the computation of gross backpay, a general denial is not sufficient. See Section 102.56(b) of the Board's Rules and Regulations, a copy of which is attached. Rather, the answer must state the basis for any disagreement with any allegations that are within Respondent's knowledge, and set forth in detail Respondent's position as to the applicable premises and furnish the appropriate supporting figures.

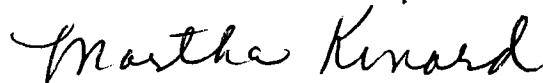
If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the amended supplemental compliance specification are true. If the answer fails to deny allegations of the amended supplemental compliance specification, paragraphs 1 through 12, in the manner required under Section 102.56(b) of the Board's Rules and Regulations, and the failure to do so is not adequately explained, the Board may find those allegations in the amended supplemental compliance specification are true and preclude Respondent from introducing any evidence controverting those allegations.

### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that on the 5th day of March, 2012, at 9:00 a.m. and consecutive days thereafter until concluded, at NLRB Courtroom, Mickey Leland Federal Building, 1919 Smith Street, Suite 1545, Houston, Texas, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this amended supplemental compliance specification. The

procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

**DATED** at Fort Worth, Texas, this 18<sup>th</sup> day of January, 2012.



---

Martha Kinard, Regional Director  
National Labor Relations Board, Region 16  
819 Taylor Street, Room 8A24  
Fort Worth, Texas 76102

Attachments

## EXHIBIT A

Case Name Tom Arand, P.C. d/b/a Animal Care Clinic  
Case Number: 16-CA-26387  
Claimant: Wendy Castellanos

Backpay period from: 2/26/2010 to 3/30/2011

Year Qtr.	Gross Backpay Calculation				Interim Earnings Calculation			Net Backpay	Medical & Other Expenses	Total Backpay
	Weeks	Hours/ Week	Hourly Rate	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings			
2010-1	5	9.0	10.65	479.25						
Quarter total				479.25	-	-	-	479.25	-	479.25
2010-2	13	9.0	10.65	1,246.05	2,066.25					
Quarter total				1,246.05	2,066.25	-	2,066.25	-	-	-
2010-3	13	9.0	10.65	1,246.05	2,446.25					
Quarter total				1,246.05	2,446.25	-	2,446.25	-	-	-
2010-4	13	9.0	10.65	1,246.05	1,734.21					
Quarter total				1,246.05	1,734.21	-	1,734.21	-	-	-
2011-1	13	9.0	10.65	1,246.05	609.30					
Quarter total				1,246.05	609.30	-	609.30	636.75	-	636.75

<b>Total</b>	1,116.00	-	1,116.00
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# EXHIBIT B

Case Name Tom Arand, P.C. d/b/a Animal Care Clinic  
Case Number: 16-CA-26387  
Claimant: James Turpin

Backpay period from: 8/25/2008 to 4/1/2011

Year Qtr.	Gross Backpay Calculation				Interim Earnings Calculation			Net Backpay	Medical & Other Expenses	Total Backpay
	Weeks	Hours/ Week	Hourly Rate	Gross Backpay	Interim Earnings	Interim Expenses	Net Interim Earnings			
2010-1	5	39.0	13.00	2,535.00	1,755.00	378.00				
Quarter total				2,535.00	1,755.00	378.00	1,377.00	1,158.00	-	1,158.00
2010-2	13	39.0	13.00	6,591.00	4,563.00	858.00				
Quarter total				6,591.00	4,563.00	858.00	3,705.00	2,886.00	-	2,886.00
2010-3	13	39.0	13.00	6,591.00	4,563.00	858.00				
Quarter total				6,591.00	4,563.00	858.00	3,705.00	2,886.00	-	2,886.00
2010-4	13	39.0	13.00	6,591.00	4,563.00	858.00				
Quarter total				6,591.00	4,563.00	858.00	3,705.00	2,886.00	-	2,886.00
2011-1	13	39.0	13.00	6,591.00	4,717.81	858.00				
Quarter total				6,591.00	4,717.81	858.00	3,859.81	2,731.19	-	2,731.19

<b>Total</b>	12,547.19	-	12,547.19
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**SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
IN UNFAIR LABOR PRACTICE PROCEEDINGS PURSUANT TO  
SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT**

The hearing will be conducted by an administrative law judge of the National Labor Relations Board who will preside at the hearing as an independent, impartial finder of the facts and applicable law whose decision in due time will be served on the parties. The offices of the administrative law judges are located in Washington, DC; San Francisco, California; New York, N.Y.; and Atlanta, Georgia.

At the date, hour, and place for which the hearing is set, the administrative law judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to ensure that the issues are sharp and clearcut; or the administrative law judge may independently conduct such a conference. The administrative law judge will preside at such conference, but may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record, for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the administrative law judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or make stipulations or concessions during any prehearing conference.

*(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)*

Parties may be represented by an attorney or other representative and present evidence relevant to the issues. All parties appearing before this hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.603, should notify the Regional Director as soon as possible and request the necessary assistance.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the administrative law judge for approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the administrative law judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the administrative law judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The administrative law judge will allow an automatic exception to all adverse rulings and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

All exhibits offered in evidence shall be in duplicate. Copies of exhibits should be supplied to the administrative law judge and other parties at the time the exhibits are offered in evidence. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the administrative law judge before the close of hearing. In the event such copy is not submitted, and the filing has not been waived by the administrative law judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. In the absence of a request, the administrative law judge may ask for oral argument if, at the close of the hearing, it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.

In the discretion of the administrative law judge, any party may, on request made before the close of the hearing, file a brief or proposed findings and conclusions, or both, with the administrative law judge who will fix the time for such filing. Any such filing submitted shall be double-spaced on 8½ by 11 inch paper.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations, with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the administrative law judge will be considered unless received by the Chief Administrative Law Judge in Washington, DC (or, in cases under the branch offices in San Francisco, California; New York, New York; and Atlanta, Georgia, the Associate Chief Administrative Law Judge) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously on all other parties, and proof of such service furnished to the Chief Administrative Law Judge or the Associate Chief Administrative Law Judge, as the case may be. A quicker response is assured if the moving party secures the positions of the other parties and includes such in the request. All briefs or proposed findings filed with the administrative law judge must be submitted in triplicate, and may be printed or otherwise legibly duplicated with service on the other parties.

In due course the administrative law judge will prepare and file with the Board a decision in this proceeding, and will cause a copy thereof to be served on each of the parties. Upon filing of this decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, on all parties. At that point, the administrative law judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the administrative law judge's decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be served on the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations. If adjustment appears possible, the administrative law judge may suggest discussions between the parties or, on request, will afford reasonable opportunity during the hearing for such discussions.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TOM ARAND, P.C. d/b/a ANIMAL CARE CLINIC

and

EQUAL JUSTICE CENTER

CASE 16-CA-026387

DATE OF MAILING January 18, 2012

**AFFIDAVIT OF SERVICE OF AMENDED SUPPLEMENTAL COMPLIANCE SPECIFICATION  
AND NOTICE OF HEARING With Form NLRB 4668 Attached**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, depose and say that on the date indicated above I served the above-entitled document(s) by postpaid regular mail upon the following persons, addressed to them at the following addresses:

**Served by certified mail:**

Dr. Jay Meyer  
Tom Arand, P.C. d/b/a Animal Care Clinic  
1401 S. IH-35, Suite 11  
Round Rock, TX 78664  
Certified No. 7011 0470 0000 5817 2094

Equal Justice Center  
510 S. Congress Avenue, Suite 206  
Austin, TX 78704  
Certified No. 7011 0470 0000 5817 2100

**Served by regular mail:**

Mr. Michael Murphy  
Legal Intern  
510 S. Congress Avenue, Suite 206  
Austin, TX 78704

C. Daniel Roberts  
Chapter 7 Trustee  
1602 East Cesar Chavez  
Austin, TX 78702

*Tracy Frost*

Subscribed and sworn to before me this 18th day

of January, 2012

DESIGNATED AGENT

*Cynthia Davis*

NATIONAL LABOR RELATIONS BOARD



United States Government

**NATIONAL LABOR RELATIONS BOARD**

**Region 16**

**819 Taylor Street - Room 8A24**

**Fort Worth, TX 76102-6178**

February 10, 2012

Animal Care Clinic  
Attn: Dr. Jay Meyer, Owner  
1401 S. IH-35, Suite 11  
Round Rock, Texas 78664

**VIA FIRST CLASS MAIL**

Re: Animal Care Clinic  
Case No. 16-CA-26387

Dear Dr. Meyer:

On January 18, 2012, this office issued an Amended Supplemental Compliance Specification and Notice of Hearing in the above-referenced matter. Therein, you were advised on page 4 that pursuant to Section 102.56 of the Board's Rules and Regulations, you were required to file an Answer to said Compliance Specification which must be received by this office on or before February 8, 2012. Moreover, you were advised on page 5 of the Amended Supplemental Compliance Specification that the failure to file a timely answer may result in the Board finding, pursuant to a Motion for Default Judgment, that the allegations in the Amended Supplemental Compliance Specification are true. As of today's date you have failed to file an Answer.

Based on the preceding, please be advised that you will have until the close of business, Friday, February 17, 2012, to file your Answer in this matter. Your failure to file an Answer by this new due date will lead me to recommend to the Regional Director that the Region seek a default judgment in this matter based on your failure to file an Answer to the Compliance Specification herein.

Should you have any questions regarding the foregoing, please do not hesitate to call the undersigned at 713/209-4879.

Sincerely,

Jamal M. Allen

Field Attorney

Region 16

National Labor Relations Board

RECEIVED

2012 FEB 28 AM 10:19

NLRB  
ORDER SECTION